

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

GARY M. TANDLICH,

Plaintiff,

v.

JULIO O. MOLINA and
VLADIMIR J. MOLINA,

Defendants.

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Civil Action No.

JUDGE BRIEANT

08 CV 1847

FILED
U.S. DISTRICT COURT
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S.D. OF N.Y.

PLAINTIFF'S ORIGINAL COMPLAINT

A. Parties

1. Plaintiff, GARY M. TANDLICH, is an individual, who is a citizen of the State of New York.

2. Defendants, JULIO O. MOLINA and VLADIMIR J. MOLINA are individuals who are citizens of the State of Connecticut and may be served with process at 52 Pemberwick Road, Greenwich, CT 06831 {*FRCP 4(e)*}.

B. Jurisdiction

3. The court has jurisdiction over the lawsuit under 28 U.S.C. §1332(a)(1) because the plaintiff and the defendants are citizens of different states, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

4. That venue is proper pursuant to 28 U.S.C. Section 1391(a) insofar as the plaintiff resides in this district and the claim arose in this district.

C. Facts

5. This lawsuit results from a collision that occurred on December 16, 2006, on Playland Parkway at or about its intersection with Milton Road, in the City of Rye, County of Westchester, State of New York. The Plaintiff, GARY M. TANDLICH was driving his vehicle reasonably and prudently when the defendants' vehicle suddenly and violently struck plaintiff's vehicle. As a result of the impact, the Plaintiff, GARY M. TANDLICH sustained serious, severe and permanent injuries pursuant to the Insurance Law of the State of New York.

D. Count 1 - Negligence

6. At the time of the accident, defendant was operating his vehicle negligently. The defendant had a duty to exercise ordinary care by operating his vehicle reasonably and prudently. The defendant breached that duty in one or more of the following ways:

- a. failing to timely apply his brakes;
- b. failing to maintain a proper lookout;
- c. failing to turn his vehicle in an effort to avoid the collision;
- d. driving his vehicle at a rate of speed that an ordinary and prudent person would not have driven under the same or similar circumstances;

- e. failing to yield the right of way; and
- f. striking the Plaintiff's vehicle.

E. Damages

7. As a direct and proximate result of defendants' negligence, Plaintiff GARY M. TANDLICH suffered the following injuries and damages:

- a. That as a result of the foregoing, Plaintiff, GARY M. TANDLICH suffered permanent and serious injuries as defined by § 5102(d) of the Insurance Law of the State of New York;
- b. That by reason thereof, Plaintiff GARY M. TANDLICH is entitled to recover for non-economic losses as set forth in section 5102(a) of the Insurance Law of the State of New York, included within the definition of "Basic Economic Loss";
- c. Physical pain and mental anguish in the past and future;
- d. Lost earnings;
- e. Damage to earning capacity;
- f. Disfigurement in the past and future;
- g. Physical impairment in the past and future;
- h. Medical expenses in the past and future.

F. Prayer

8. For these reasons, Plaintiff asks for judgment against defendants for
- a. actual damages exceeding the jurisdictional limits of this court;
 - b. pre-judgment and post-judgment interest;
 - c. costs of suit; and
 - d. all other relief which the court deems appropriate.

PLAINTIFF'S DEMAND FOR JURY TRIAL

Plaintiff, GARY M. TANDLICH, asserts his rights under the Seventh Amendment of the United States Constitution and demands a trial by Jury on all issues, in accordance with Federal Rule of Civil Procedure 38.

Dated: February 4, 2008

Respectfully submitted,

By 
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Plaintiff, GARY M. TANDLICH